

ON THE SPELLING OF DANIEL M'NAGHTEN'S NAME

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Having just participated in three years of argument and debate over the substance of the M'Naghten Rules,¹ the resultant emotional tensions impel me to attempt to put to rest, once and for all, at least one aspect, no matter how inconsequential, of that most famous case: What is the correct spelling of *M'Naghten*? But, as the reader will discover, even that small comfort is denied me.

M'Naghten achieved immortality by lending his name to the famous (or infamous) rules which govern the criminal responsibility of the mentally ill throughout the English speaking world.² His intended victim, Sir Robert Peel, has accomplished his fame in perpetuity in a manner reserved for the very few: his name (or rather, his nickname) has become part of our language itself. "Bobby" as the designation of the English policeman is directly derived from Sir Robert.³ The actual victim, Edward Drummond, assassinated solely because he was mistakenly identified (as the Prime Minister) by Daniel M'Naghten has remained forgotten. Perhaps it is Drummond's uneasy ghost, doomed to the limbo of the unremembered, who is really behind the unending *M'Naghten* controversies.

At any rate, when one tires of dispute over the substance of *M'Naghten*, one can continue endlessly over the form of *M'Naghten*, even to the spelling of his name.

M'Naghten is the customary spelling in both English and American law reports. I use it here only out of deference to the indexers who will wish to file this article in its appropriate alphabetical position among other medico-legal trivia. Of all possible spellings, it is probably the least correct. Yet, if one attempts a

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¹ California Special Commissions on Insanity and Criminal Offenders, First Report (July 7, 1962), Second Report (November 15, 1962).

² See Diamond, "Isaac Ray and the Trial of Daniel M'Naghten," 112 Am. J. Psychiatry 651 (1956).

³ Webster, New International Dictionary 300 (2d unabridged ed. 1952).

more accurate spelling, the critical reviewer will immediately spot it and accuse one of ignorance.

Clarence B. Farrar, the distinguished editor of the *American Journal of Psychiatry*, and a medico-legal authority on his own right, did just that in a review of Partridge's *Broadmoor: A History of Criminal Lunacy and its Problems*.⁴ In a letter to the editor, I took issue with Dr. Farrar, who enlisted the aid of Dr. Winfred Overholser, then Superintendent of St. Elizabeth's Hospital, to defeat me and assert the superiority of the conventional spelling *M'Naghten*.⁵ But I knew this could not settle the issue, for the hospital records of both Bethlem and Broadmoor, where M'Naghten was confined after his acquittal on the grounds of insanity, spelled the name sometimes *McNaughten* and sometimes *McNaughton*.⁶ The original report of the trial spelled it *M'Naughton*.⁷

With this background of controversy, it was with pleasure and amusement that I received from Judge John Biggs, Jr. copies of the following correspondence between Justice Felix Frankfurter and Sir William J. Haley, Editor of *The Times*, of London.⁸

November 3, 1952

Dear Sir William:

That poor creature, Daniel M'Naghten, not only killed an innocent man, but also occasioned considerable conflict between law and medicine. But in so doing he gave his name to a leading case and thus obtained a permanent place in the history of the law. I am sure that *The Times* does not want to make inroads on his fame. A strange fatality has dogged the spelling of his name; too often it is incorrectly spelled. It is M'Naghten, not M'Naughten or any of the variants of its misspelling.

Or am I wrong in relying on the spelling given by Clark and Finnely in their report of the case? See *Daniel M'Naghten's* case, 10 Cl. & Fin. 200.

Sincerely yours,
Felix Frankfurter

Sir William J. Haley

⁴ Farrar, Book Review, 110 Am. J. Psychiatry 399 (1953).

⁵ Diamond, Correspondence, 110 Am. J. Psychiatry 705 (1954).

⁶ Transcripts of the Bethlehem and Broadmoor hospital records of Daniel M'Naghten were obtained with the permission of, and the courteous cooperation of, the Secretary of State, Home Office, Whitehall, London.

⁷ Bousfield & Merrett, Report of the Trial of Daniel M'Naughton (London, 1843).

⁸ Permission for publication of this correspondence has been kindly granted by Justice Felix Frankfurter, Sir William Haley and Judge John Biggs, Jr.

THE TIMES
1785

The Times Publishing Company, Ltd.,
Printing House Square,
London, E. C. 4
Telephone: Central 2000

November 10, 1952

Dear Mr. Justice Frankfurter,

The strong leaven of Daniel M'Naghten still works on. He is a benefactor indeed to have occasioned a letter from you. The interesting thing about the point you raise is that all through the proof stages of the article M'Naghten had appeared as such, but so strong is the tradition of *The Times* that it was altered to M'Naughton just as it was going to press. One of the most powerful things which hits a newcomer to Printing House Square is the magnificent strength of tradition, and the fact is that that was how *The Times* spelt him in its report of the original trial.

The exact spelling has been a problem down the years. No doubt high authority must be given to Clark and Finelly but there are other authorities, dare I say it, equally high who disagree. It may amuse you to have the following list got out by the writer of the article when I told him you had raised the point. (Incidentally he is that kind of man.)

1. The original Gaelic—Mhicneachdain.
2. The lunatic himself, signing a letter produced at the trial—M'Naughten (as reported in *The Times*).
3. The State Trials—Macnaughton.
4. Clark and Finelly—M'Naghten.
5. Archbold, 1938 edition—Macnaughton
1927 edition—Macnaughten
Index —Macnaghten
6. Stephen, earlier editions—Macnaughten
later editions—Macnaghten
7. Halsbury, earlier editions—M'Naughton
later editions—M'Naughten
8. Select Committee on Capital Punishment 1930—
McNaughten, and several other spellings.
9. Encyclopaedia Britannica—different spellings in different articles.
10. Royal Commission on Capital Punishment, 1949, instructed by its Chairman, Sir Ernest Gowers—
M'Naghten.

After all that I do not quite know what *The Times* can do if it is to desert its long standing tradition based, as you see, on a letter signed by the man himself. Perhaps it would be a nice tribute to the spirit of *The Times* if we went back to the original Gaelic.

Yours sincerely,
W. J. Haley

The Hon. Felix Frankfurter,
Supreme Court of the United States,
Washington 13, D.C.
U. S. A.

November 26, 1952

Dear Sir William:

Your kindness in sending me a variorum of Mhicneachdain afforded me another experience with the perplexities and exhilaration of scholarship. But you also raise what the lawyers like to call "a nice point." To what extent is a lunatic's spelling even of his own name to be deemed an authority?

And when you speak of "the magnificent strength of tradition" in Printing House Square, you stir in me the suspicion that the task of the Editor of *The Times* is not unlike one's job on this Court—namely, how to reconcile the conflicting demands of the needs of stability and of change. In expressing greater confidence in the ability of the Editor of *The Times* than in my own to square that circle, I speak with the bluntness that is supposed to be American.

Very sincerely yours,
Felix Frankfurter

Sir William J. Haley.

As a collector of *M'Naghteniana* I have long searched for an autograph specimen of M'Naghten's signature. Dr. Leslie T. Morton, co-author of the bible of the medical bibliomaniac,⁹ succeeded where I failed, and reproduced here is a photograph of M'Naghten's signature.¹⁰ Morton obtained this rarest of rare autographs from a statement made before the Bow Street magistrate and signed by the prisoner on January 21, 1843.



As Morton regretfully states: "Unfortunately it fails to make clear just how McNaughton spelt his name."¹¹ So Justice Frankfurter has a point in asking: "To what extent is a lunatic's spelling of his own name to be deemed an authority?"¹²

At first glance, the signature would seem to read *McNaughtun* and Morton says that an authority at the British Museum reads it so. But he quotes other handwriting experts who dispute this, and his research into many British genealogical texts as well as the Glasgow registers of births and baptisms do not support the spelling

⁹ Garrison & Morton, *Medical Bibliography* (2d ed. 1954).

¹⁰ Reproduced by permission of the British Medical Journal.

¹¹ Morton, "Daniel McNaughton's Signature," *British Medical Journal* 107 (Jan. 14, 1956).

¹² Frankfurter, Letter to Sir William Haley (Nov. 26, 1952).

McNaughtun. After reviewing evidence from a large number of other sources, Morton concludes in favor of the spelling *McNaughton*.

How does one reconcile Sir William Haley's contention that M'Naghten signed his name as *M'Naughten* in a letter produced in the trial and reported in *The Times* of that day?¹³ It is, of course, possible, that an ignorant or illiterate man might spell his own name one way one time and another way another time. But M'Naghten was neither ignorant nor illiterate. Testimony at the trial elicited the information that he had attended lectures at the Mechanics Museum at Glasgow in anatomy, physiology and natural philosophy between 1838 and 1840. The Curator of the Museum testified that during that period M'Naghten took out 36 books from the Museum's library.¹⁴

M'Naghten was undoubtedly suffering from paranoid schizophrenia.¹⁵ It has been my clinical experience that paranoid patients are unusually particular as to how they spell their names in their signatures. It would be very surprising for such a person to vary the spelling unless his delusions required it for some dark and mysterious reason.

Sir Ernest Gowers, chairman of the Royal Commission on Capital Punishment, attempts to solve the problem through dictatorial authority. Lord Justice Asquith in a letter to *The Times* of December 5, 1949 protests the spelling *M'Naghten*. Sir Ernest Gowers replied in a letter of December 16, 1949: "So for us [The Royal Commission] the Rules will be the M'Naghten Rules: any witness who spells the name differently will be treated as a deviationist, and forced into conformity by the printer."¹⁶

But I fear the controversy will proceed. It would not appear that anything about *M'Naghten* can ever be put to rest: form or substance.

¹³ I have verified this myself and found that *The Times* of March 4, 5, & 6, 1843 uses this spelling throughout its extensive reports of the trial. *The London Illustrated News* of March 4, 1843 spells the name the same way.

¹⁴ *The Times* 6 (London, March 4, 1843).

¹⁵ The hospital records of Daniel M'Naghten, *supra* note 6, describe typical behavior which would now be so diagnosed.

¹⁶ Quoted by Morton, *op. cit. supra* note 11, at 109.